

REMARKS/ARGUMENTS

Claims 7-9 are active. Claims 1-6 and 10-15 have been withdrawn from consideration. Claim 7 has been revised to refer to the penetratin family (specification, page 2, lines 10 *ff.*) and to eliminate the proviso. This proviso has been dropped in view of the limitation of the claim to peptides of the penetratin family. A substitute Abstract is provided. No new matter is believed to have been added. Favorable consideration of these amendments and allowance of this application are respectfully requested.

Restriction/Election

The Applicants previously elected without traverse **Group II**, claims 7-9, directed to a composition comprising a transducing peptide. The requirement has been made FINAL. The Applicants respectfully request that the claims directed to non-elected subject matter which depend from or otherwise include all the limitations of an allowed elected claim, be rejoined upon an indication of allowability for the elected claim, see MPEP 821.04.

Rejection—35 U.S.C. §102

Claims 7-9 were rejected under 35 U.S.C. §102(b) as being anticipated by Schutze-Redelmeier, et al., J. Immunol. 157:650. This rejection is moot in view of the amendments above.

Schutze-Redelmeier disclose a covalently-linked transducing peptide, while claim 7 now requires one that is adsorbed to the surface and not covalently-linked.

Schutze-Redelmeier teach fusion proteins comprising a transducing peptide (antennapedia homeodomain) fused to various antigenic peptides (cargos). These fusion proteins are obtained in the classical way by translation of a recombinant construct comprising a sequence encoding the transducing peptide in frame with a sequence encoding

the cargo (*cf.* Fig. 1). Thus, it can be appreciated that the transducing peptide and the cargo are covalently-linked together via a peptide bond.

In contrast, in the compositions of the invention the transducing peptide is not covalently-linked to the cargo, but instead is adsorbed to the surface of the cargo through non-covalent hydrophobic interactions.

Since the compositions of the invention clearly differ from the fusion proteins of Schutze-Redelmeier, this rejection cannot be maintained.

Rejection—35 U.S.C. §112, first paragraph

Claims 7-9 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate enablement. The Applicants that the Examiner for pointing out subject matter that is enabled. Such subject matter is now specifically claimed by independent claim 7. The peptides of the penetratin family were well known as of the filing date of this application. Moreover, they are disclosed, for example, by the documents cited in the specification, in particular by PCT WO 00/01417 and U.S. Patent No. 6,080,724 (which discloses the structural requirements to be met to obtain a functional penetratin). Therefore, this rejection may now be withdrawn.

Objection—Abstract

The wording in the Abstract was objected to. This issue is moot in view of the attached substitute Abstract.

Conclusion

This application presents allowable subject matter and the Examiner is respectfully requested to pass it to issue. The Examiner is kindly invited to contact the undersigned should a further discussion of the issues or claims be helpful.


Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon


Thomas M. Cunningham
Registration No. 45,394